HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

THURSDAY, TWENTIETH DAY OF JULY TWO THOUSAND SIX

WRIT PETITION No.14687 of 2006

Between:

M/s.Ambica Iron & Steel (Hyd)
Private Limitd, Hyderabad.
.. Petitioner

And

Commercial Tax Officer, Hyderabad.
..Respondent

***

ORDER: (Per Hon'ble Sri JC, J)**:**

The petitioner, a private limited company, carrying business in iron and steel products, is a registered dealer with the respondent-Commercial Tax Officer, Hyderabad, under the provisions of A.P.General Sales Tax Act. For the assessment year 2002-03, the petitioner claimed exemption from tax under the A.P.General Sales Tax Act, on the ground that the entire turnover itself was consignment sales through agents located in various parts of the country, outside the State of Andhra Pradesh. The respondent issued a show cause notice dated 29-03-2004 calling upon the petitioner as to why his claim should not be rejected for the

reasons indicated in the show cause notice. On 06-03-2006, the respondent called upon the petitioner to produce certain material. The petitioner responded to it by letter dated 14-03-2006. Eventually, a final assessment order came to be passed on 31-03-2006. The said assessment order is challenged in the present writ petition.

2. The only submission made by the learned counsel for the petitioner is that in the assessment order, the respondent examined and decided the issues which were not raised in the show cause notice, thereby reducing the show cause notice to a mere formality and denial of principles of natural justice.

3. Heard the learned Government Pleader for Commercial Tax.

4. We have examined both the show cause notice and the final assessment order referred to earlier and we are convinced that the submission of the learned counsel for the petitioner is well founded. The respondent travelled beyond the scope of the show cause notice while making the assessment thereby depriving the petitioner to an opportunity of meeting the quarries of the respondent.

5. In the circumstances, we are of the opinion that the writ petition can be disposed of at this stage by declaring that the assessment order dated 31-03-2006 shall be treated as a "fresh show cause notice" and an assessment be made after giving appropriate opportunity to the petitioner. The petitioner is given a period of three weeks' time from today to produce whatever material he wants to utilize in defence to the show cause notice and thereafter it is open to the respondent to make appropriate orders in accordance with law.

6. Accordingly, the Writ Petition is disposed of with the aforementioned direction at the stage of admission. No costs.

(J.CHELAMESWAR, J)

(D.APPARAO, J)

July 20, 2006.

Note:-
Issue C.C. today
B/o.
KVR